

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA, *ex. rel.*,
DAVID MORGAN

Plaintiff,

v.

EXPRESS SCRIPTS, INC., *et al.*,

Defendants.

Civil No. 2:05-cv-01714
(DMC)(JAD)

ECF CASE

Motion Day: May 20, 2013
Oral Argument Requested

**DEFENDANT FIRST DATABANK, INC.'S NOTICE OF MOTION TO
DISMISS RELATOR'S THIRD AMENDED COMPLAINT**

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To: The Clerk of this Court and all Counsel of Record

PLEASE TAKE NOTICE that on May 20, 2013, at 10:00 a.m., or as soon thereafter as counsel may be heard, Defendant First DataBank, Inc. (“First DataBank”) with a principal place of business at 701 Gateway Blvd., Suite 600 South, San Francisco, CA 94080, shall move before the Hon. Dennis M. Cavanaugh, U.S.D.J., at the United States District Court for the District of New Jersey located at Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Newark, NJ 07101, for an order pursuant to Rules 12(b)(1), 12(b)(6), and 9(b) of the Federal Rules of Civil Procedure (“FRCP”) for lack of subject matter jurisdiction, failure to state a claim and failure to allege fraud with sufficient particularity. The Court should decline to exercise supplemental jurisdiction over the remaining claims against First DataBank (all state false claims act causes of actions) over which the Court does not have original jurisdiction.

The Motion to Dismiss the Third Amended Complaint pursuant to FRCP 12(b)(1), 12(b)(6), and 9(b) is based upon this Notice of Motion, Memorandum of Law in support thereof, the Declaration of Eva M. Saketkoo, Esq., and exhibits attached thereto, any reply filed in support of this motion, oral argument of counsel at the hearing, and any other matters that the Court may properly consider.

Please Take Further Notice that oral argument is requested.

Dated: April 16, 2013

Respectfully Submitted,

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